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April 12, 1996

Office of the Secretary
Federal Communications Commission
Office of the Secretary
1919 M Street, N.W.
Washington, DC. 20554

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Ex Parte Comments Re:

Further Notice of Proposed Rule Making - June 23, 1995
In the Matter of WT Docket No. 96-59; GN Docket No. 90-314

Personal Statement of Harvey Leong:

As an Asian American C-Band bidder, I first want to make a statement before I proceed to recommendations for the D, E, and F PCS frequency blocks.

At this point in time, I would strong recommend to very small businesses **not to participate in future FCC's PCS auction**, unless major rule changes are implemented. As a small business person with limited resources, I and many others small business have spent more than two years of our time in chasing the PCS business vision. My point is that very small and small businesses are limited in time and financial resources and **it is irresponsible for the FCC to hold up opportunities that we can never win**. While the NPRM states that 46 C Band bidders claimed minority business status, the proof will be in the final statistics showing how many minorities and women business actually will end up with winning bids.

Note: I like many other minority and women bidders had invested so much in preparing for the C-Band auction that even though the chances of winning were substantially decreased, we went forward into the C-Band auction. Moreover, it took measurable time and effort to manage through some fifty rounds before dropping out. Again, my advice at this time would be for very small and small businesses to save their resources and not pursue PCS licenses.

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I believe the goal of diversity should not be race and gender based but based on having the maximum number of small business license holders. This is the last opportunity for truly small locally focused businesses with niche applications to win a PCS spectrum license. **The FCC should encourage these locally based niche service providers who create new services and new jobs in the community and return profits to the communities in which they live.** I do not think it is too much to ask that **one of the six spectrum licenses would be made available for small businesses who wish to implement niche services in their home areas.**

As to the question of benefits for small businesses, from my experience I can tell you that I like many other small business bidders in the C-Band auction used all of our benefits to bid prices that met market demands. **Basically, these incentives are needed and should be increase, because they are used by small businesses to offset scale and scope disadvantages.** One can assume that for competitive reasons the bidding for the remaining licenses will be even more intense -- thus making it more difficult for small businesses to win.

Diversity of ownership will help to create a diversity of wireless services. This is becoming an issue of the "spectrum haves" versus the "spectrum have nots." How will the "have nots" win licenses when the "haves" have all the advantages. "Haves" have scope and scale, market power, better funding and will and can pay more to keep others out of the wireless business. I am particularly concerned that the C-Band spectrum winners will return with even stronger financing and bid up the F Band well beyond prices that can be supported by small local niche business. **The country does not need more big national or regional companies -- we need to have pioneers trying to service the market niches left open by larger companies -- that is, under served markets in local areas.**

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In summary, focus on the need of very small and small businesses, consider increasing benefits and restricting participants in the F- Band auction, make it tougher to flip licenses, make it tougher to "sham", do not permit or at least reduce foreign ownership percentages of these licenses, limit the number of license that can be won using the full benefits and lastly, let's get the auction started in 1996.

RECOMMENDATION:

The PCS - F Band Auction is an important opportunity for small minority controlled businesses to enter the wireless communications business. I recommend that the Commission implement rule changes to increase the chances of locally based and locally focused small businesses to win the spectrum license in their local area.

1. Do away with race and gender based benefits. Move to business size as the factor in determining the level of benefits to be granted.
2. Increase the level of benefits for very small businesses, that is:
 - **Create a new category: A very small business, i.e., one less than \$1 million dollars in both revenues and assets.**
 - Increase discount to 50% for very small businesses
 - Increase financing support level
 - 5% down payment
 - eight years interest only at 10 year Treasury Bill rate
 - Keep existing definition and benefits for small businesses

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3. Restrict the F Band auction to only small and very small businesses
 - Or, open D and E Band auctions to very small and small business with benefit levels as stated above
 - Or, do away with benefits for C-Band winners who have won licenses with bids over \$4 million dollars.

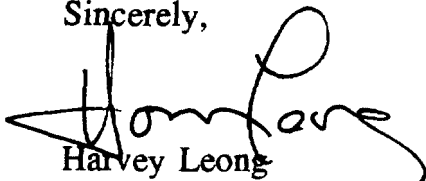
4. Restrict the number of licenses that a very small business can win using full benefits to three (3) licenses in the F- Band. For any other licenses, they would be treated as a small business.

5. Restrict foreign investment in the F-Band to zero or much lower levels.

6. Do not lower restriction in the transfer of licenses or required documentation
 - There are many options open to successful service providers
 - In the event of bankruptcy, the F- Band winner should return the license to the Government.
 - Keep all the reporting requirements re: ownership disclosure. This is extremely useful in bidding analysis and developing a comfort level that the competitive arena is level.

7. Do not change any control group structure rules at this time. It would be unfair for C-Band winners to have benefited from these rules and for F-Band bidders to be offered a more restrictive set of rules.

Sincerely,


Harvey Leong